

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6083

BILL NUMBER: HB 1037

NOTE PREPARED: Feb 28, 2005

BILL AMENDED: Feb 24, 2005

SUBJECT: Pharmacy Security.

FIRST AUTHOR: Rep. Neese

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill allows a pharmacist to refuse to honor a prescription if honoring the prescription would endanger the safety of a person employed by the pharmacy. It requires a pharmacist to notify a physician who issued a prescription if the pharmacist refuses to honor the prescription because honoring the prescription would: (1) be against the best interest of the patient; or (2) be contrary to the health and safety of the patient. The bill allows the Board of Pharmacy to refuse to renew, suspend, or revoke a pharmacy permit if the permittee fails to implement security measures designated by the Board. It also makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a pharmacy.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Penalty Provision:* The bill makes it a Class D felony to intimidate, and a Class C felony if the person draws or uses a deadly weapon.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months, or two years for a Class C felony.

Explanation of State Revenues: (Revised) *Immunity Provision:* The bill makes pharmacists immune from criminal prosecution and civil liability for refusing to honor a prescription for certain reasons. If fewer civil actions occur as a result of the immunity provision, revenue to the state General Fund from court fees would be less than what would have otherwise occurred. However, any changes in revenue are likely to be small.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony and a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund. However, any additional revenues would likely be small.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Immunity Provision:* The bill makes pharmacists immune from criminal prosecution and civil liability for refusing to honor a prescription for certain reasons. If fewer civil actions occur as a result of the immunity provision, revenue to the following sources would be less than what would have otherwise occurred. The county general fund receives 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record receives 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. However, any changes in revenue are likely to be small.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Board of Pharmacy; Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Department of Correction.

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